



General Assembly

January Session, 2013

***Raised Bill No. 901***

LCO No. 2888



Referred to Committee on GOVERNMENT ADMINISTRATION  
AND ELECTIONS

Introduced by:  
(GAE)

***AN ACT CONCERNING POST-ELECTION AUDITS.***

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Section 9-320f of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2013*):

3 (a) Not earlier than the fifteenth day after any election or primary  
4 and not later than two business days before the canvass of votes by the  
5 Secretary of the State, Treasurer and Comptroller, for any federal or  
6 state election or primary, or by the [town] municipal clerk for any  
7 municipal election or primary, the registrars of voters shall conduct [a  
8 manual] an audit of the votes recorded in not less than [ten] five per  
9 cent of the voting districts in the state, district or municipality,  
10 whichever is applicable. Such [manual] audit shall be noticed in  
11 advance and be open to public observation. Any election official who  
12 participates in the administration and conduct of an audit pursuant to  
13 this section shall be compensated by the municipality at the standard  
14 rate of pay established by such municipality for elections or primaries,  
15 as the case may be.

16 (b) The voting districts subject to the audit described in subsection  
17 (a) of this section shall be selected in a random drawing by the  
18 Secretary of the State and such selection process shall be open to the  
19 public. [The offices subject to the audit pursuant to this section shall  
20 be, (1) in the case of an election where the office of presidential elector  
21 is on the ballot, all offices required to be audited by federal law, plus  
22 one additional office selected in a random drawing by the Secretary of  
23 the State, but in no case less than three offices, (2) in the case of an  
24 election where the office of Governor is on the ballot, all offices  
25 required to be audited by federal law, plus one additional office  
26 selected in a random drawing by the Secretary of the State, but in no  
27 case less than three offices, (3) in the case of a municipal election, three  
28 offices or twenty per cent of the number of offices on the ballot,  
29 whichever is greater, selected at random by the municipal clerk, and  
30 (4) in the case of a primary election, all offices required to be audited  
31 by federal law, plus one additional office, if any, but in no event less  
32 than twenty per cent of the offices on the ballot, selected in a random  
33 drawing by the municipal clerk] The Secretary of the State may select  
34 no more than three districts in a municipality.

35 (c) If a selected voting district [has an office that is subject to  
36 recanvass or an election or primary contest pursuant to the general  
37 statutes, the Secretary] is in a municipality in which three districts have  
38 already been selected for audit under subsection (b) of this section for a  
39 single election or primary, the Secretary of the State shall select an  
40 alternative district, pursuant to the process described in subsection (b)  
41 of this section.

42 (d) The [manual] audit described in subsection (a) of this section  
43 shall consist of the [manual] tabulation of [the] all paper ballots cast  
44 and counted by each voting tabulator subject to such audit. Such  
45 tabulation of such paper ballots shall be on a voting tabulator that is  
46 different from the voting tabulator used for the primary or election day  
47 tabulation of such ballots. Once complete, the vote totals established  
48 pursuant to the [manual tabulation] audit conducted in accordance

49 with this subsection shall be compared to the results reported by the  
50 voting tabulator on the day of the election or primary. The results of  
51 the [manual tabulation] audit conducted in accordance with this  
52 subsection shall be reported on a form prescribed by the Secretary of  
53 the State which shall include the total number of ballots counted, the  
54 total votes received by each candidate in question, the total votes  
55 received by each candidate in question on ballots that were properly  
56 completed by each voter and the total votes received by each candidate  
57 in question on ballots that were not properly completed by each voter.  
58 Such report shall be filed with the Secretary of the State who shall  
59 immediately forward such report to The University of Connecticut for  
60 analysis. The University of Connecticut shall file a written report with  
61 the Secretary of the State regarding such analysis that describes any  
62 discrepancies identified. After receipt of such report, the Secretary of  
63 the State shall file such report with the State Elections Enforcement  
64 Commission.

65 (e) For the purposes of this section, a ballot that has not been  
66 properly completed will be deemed to be a ballot on which (1) votes  
67 have been marked by the voter outside the vote targets, (2) votes have  
68 been marked by the voter using a manual marking device that cannot  
69 be read by the voting tabulator, or (3) in the judgment of the registrars  
70 of voters, the voter marked the ballot in such a manner that the voting  
71 tabulator may not have read the marks as votes cast.

72 (f) Notwithstanding the provisions of section 9-311, the Secretary of  
73 the State shall order a discrepancy recanvass of the returns of an  
74 election or primary for any office if a discrepancy, as defined in  
75 subsection (o) of this section, exists where the margin of victory in the  
76 race for such office is less than the amount of the discrepancy  
77 multiplied by the total number of voting districts where such race  
78 appeared on the ballot, provided in a year in which the Secretary of the  
79 State is a candidate for an office on the ballot and that office is subject  
80 to an audit as provided by this section, the State Elections Enforcement  
81 Commission shall order a discrepancy recanvass if a discrepancy, as

82 defined by subsection (o) of this section, has occurred that could affect  
83 the outcome of the election or primary for such office.

84 (g) If The University of Connecticut report described in subsection  
85 (d) of this section indicates that a voting tabulator failed to record  
86 votes accurately and in the manner provided by the general statutes,  
87 the Secretary of the State shall require that the voting tabulator be  
88 examined and recertified by the Secretary of the State, or the  
89 Secretary's designee. Nothing in this subsection shall be construed to  
90 prohibit the Secretary of the State from requiring that a voting  
91 tabulator be examined and recertified.

92 (h) The audit report filed pursuant to subsection (d) of this section  
93 shall be open to public inspection and may be used as prima facie  
94 evidence of a discrepancy in any contest arising pursuant to chapter  
95 149 or for any other cause of action arising from such election or  
96 primary.

97 (i) If the audit officials are unable to reconcile the [manual] audit  
98 count conducted in accordance with subsection (d) of this section with  
99 the electronic vote tabulation of the primary or election day count and  
100 discrepancies, the Secretary of the State shall conduct such further  
101 investigation of the voting tabulator malfunction as may be necessary  
102 for the purpose of reviewing whether or not to decertify the voting  
103 tabulator or tabulators in question or to order the voting tabulator to  
104 be examined and recertified pursuant to subsection (g) of this section.  
105 Any report produced by the Secretary of the State as a result of such  
106 investigation shall be filed with the State Elections Enforcement  
107 Commission and the commission may initiate such further  
108 investigation in accordance with subdivision (1) of subsection (a) of  
109 section 9-7b as may be required to determine if any violations of the  
110 general statutes concerning election law have been committed.

111 (j) The individual paper ballots used at an election or primary shall  
112 be carefully preserved and returned in their designated receptacle in

113 accordance with the requirements of section 9-266 or 9-310, whichever  
114 is applicable.

115 (k) Nothing in this section shall be construed to preclude any  
116 candidate or elector from seeking additional remedies pursuant to  
117 chapter 149.

118 (l) After an election or primary, any voting tabulator may be kept  
119 locked for a period longer than that prescribed by sections 9-266, 9-310  
120 and 9-447, if such an extended period is ordered by either a court of  
121 competent jurisdiction, the Secretary of the State or the State Elections  
122 Enforcement Commission. Either the court or the Secretary of the State  
123 may order an audit of such voting tabulator to be conducted by such  
124 persons as the court or the Secretary of the State may designate,  
125 provided the State Elections Enforcement Commission may order such  
126 an audit under the circumstances prescribed in subsection (f) of this  
127 section. If the machine utilized in such election or primary is an optical  
128 scan voting system, such order to lock such machine shall include the  
129 tabulator, memory card and all other components and processes  
130 utilized in the programming of such machine.

131 (m) The Secretary of the State may adopt regulations, in accordance  
132 with the provisions of chapter 54, as may be necessary for the conduct  
133 of the [manual] audit tabulation of the paper ballots described in  
134 subsection [(a)] (d) of this section and to establish guidelines for  
135 expanded audits when there are differences between the [manual and  
136 tabulator counts] audit counts and the primary or election day  
137 tabulator counts.

138 (n) Notwithstanding any provision of the general statutes, the  
139 Secretary of the State shall have access to the code in any voting  
140 machine whenever any problem is discovered as a result of the audit  
141 described in subsection (a) of this section.

142 (o) As used in this section, "discrepancy" means any difference in  
143 vote totals between tabulator and [manual] audit counts in a voting

144 district that exceeds one-half of one per cent of the lesser amount of the  
145 vote totals between the tabulator used for the primary or election day  
146 tabulation and [manual] audit counts where such differences cannot be  
147 resolved through an accounting of ballots that were not marked  
148 properly in accordance with subsection (e) of this section, "state  
149 election" means "state election", as defined in section 9-1, and  
150 "municipal election" means a municipal election held pursuant to  
151 section 9-164.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>July 1, 2013</i>	9-320f
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***Statement of Purpose:***

To streamline the post-election audit process.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*